

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DAMION BROMFIELD,

Plaintiff,

v.

CHARLES MCBURNEY, *et al*,

Defendants.

Case No. C07-5226RBL-KLS

ORDER GRANTING
PLAINTIFF'S MOTION FOR
EXTENSION OF TIME TO
RESPOND ORDER TO SHOW
CAUSE

This matter has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local Magistrates' Rules MJR 1, MJR 3, and MJR 4. This matter comes before the Court on plaintiff's filing of a motion for extension of time (Dkt. #15) to respond to the Court's order to show cause (Dkt. #13) regarding the GEO defendants'¹ motion to dismiss for failure to state a claim pursuant to Federal Rule of Civil Procedure ("Fed. R. Civ. P.") 12(b)(6) (Dkt. #11). After reviewing plaintiff's motion and the remainder of the record, the Court hereby finds and orders as follows:

In its order to show cause, the Court found plaintiff had failed to state a proper claim against any of the individually named GEO defendants. On that basis, the Court stated it was inclined to recommend

¹The GEO defendants are all employees of the GEO Group Inc., and include the following defendants: Charles McBurney, A. Nelson, George Wigen, Doe McClusky, Carl Sadler, and Jose Moncevias.

1 granting the GEO defendants motion to dismiss. Before doing so, however, the Court gave plaintiff the
2 opportunity to file an amended complaint, curing, if possible, those deficiencies, or show cause explaining
3 why this matter should not be dismissed by no later than February 13, 2008.

4 At the outset, it should be noted that while it appears plaintiff has served his motion on counsel for
5 defendants Michael Melendez and Jack Bennett, it appears he did not properly serve it on counsel for the
6 GEO defendants. Ordinarily, this could be cause for denial of his motion. However, because for the
7 reasons set forth below, there appears to be good reason for at least some extension in the amount of time
8 for plaintiff to respond the Court's order to show cause, and because it does not appear such an extension
9 would prejudice any of the GEO defendants, the Court shall grant plaintiff's request subject to the time
10 limitation discussed below.

11 As the basis for his motion for an extension of time to respond to the Court's order to show cause,
12 plaintiff states that "the disk that GEO provides detainee [sic] is broken and the original complaint is on
13 that disk and cannot be excess [sic] at all." (Dkt. #15, p. 2). Thus, it appears plaintiff is claiming that he
14 is not able to access his original complaint, which he feels is necessary in order for him to be able to
15 respond to the Court's order to show cause. Plaintiff requests an extension of time until April 1, 2008, in
16 which to file his response.

17 It is not clear, however, why plaintiff needs until April 1, 2008, or almost two months in which to
18 respond to the Court's order, particularly in light of the fact that he has not stated when he believes he
19 will be able to gain access to the disk noted above. Nor has plaintiff explained why access to the disk
20 provides the only way for him to be able to file an amended complaint as he was directed to do. To the
21 extent that plaintiff is unable to access any copy of his original complaint, the Court shall direct the Clerk
22 to send him a copy thereof along with this order.

23 Accordingly, the Court shall grant plaintiff's request for an extension of time, but instead shall
24 grant him an extra thirty (30) days in which to file an amended complaint. Plaintiff, therefore, shall file
25 such an amended complaint curing, if possible, the deficiencies noted in the Court's order to show cause
26 by **no later than March 9, 2008**, or show cause why the GEO defendants' motion to dismiss should not
27 be granted and this matter dismissed.

28 The Clerk thus is directed to send a copy of this order to plaintiff, along with a copy of the original
complaint (Dkt. #5) filed in this matter. The Clerk also is directed to send a copy of this order to counsel

1 for defendants, and to re-note the GEO defendants' motion to dismiss (Dkt. #11) for consideration on
2 **March 14, 2008.**

3 DATED this 11th day of February, 2008.

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7 Karen L. Strombom
8 United States Magistrate Judge
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